

BENNY N. NAPOLEON

Wayne County Sheriff



OFFICE OF THE SHERIFF

1231 ST. ANTOINE • DETROIT, MI 48226
TEL: (313) 224-2222 • FAX: (313) 224-2367

June 29, 2010

Justices of the Michigan Supreme Court
P.O. Box 30052
Lansing, Michigan 48909

**Re: Proposed Amendment to Administrative Order 2003-7
ADM File No. 2010-08.**

Wayne County Executive Robert A. Ficano and Wayne County Sheriff Benny N. Napoleon respectfully oppose a proposed amendment to Administrative Order 2003-7. Specifically, the Court has proposed the following amendment to its Circuit Court Case Management Guidelines:

- "10. *Criminal Proceedings.* 90% of all felony cases should be adjudicated within 91-154 days from the date of entry of the order binding the defendant over to the circuit court; ~~98% within 154 days;~~ and 100% within 301 days. Incarcerated persons should be afforded priority for trial."

We believe that this amendment, if adopted, will have a major adverse impact on the jail population at the Wayne County Jail and will lead to the release of hundreds of prisoners. Similar, if lesser scale, impacts are likely to be felt state wide.

The Wayne County Jail is the largest county jail in Michigan. About two-thirds of its inmates are awaiting trial or sentencing. Since the early 1970's, the jail has been under court supervision, and we are mandated by law and a consent order to prevent overcrowded conditions at the jail. Historically, jail overcrowding was dealt with by simply releasing prisoners from jail with little or no supervision pursuant to a court-ordered priority system. Today, Wayne County utilizes more tools, including the supervised releases of prisoners and placement of inmates in community programs as alternatives to jail. Even with this modern approach, our jail is at capacity, and the Sheriff must work tirelessly to manage the jail population while maintaining public safety.

There are two variables that determine jail population. The first is the number of jail admissions. The second is length of stay – how long the average prisoner stays in jail before being released or being sentenced and transferred to a state prison. The efficiency of the courts plays a major role in prisoner length of stay. The faster cases are processed, the lower the average length of stay in the jail, and vice versa.

Small changes in the time it takes the circuit court to process a case make big differences in the jail population. Wayne County admits over 20,000 pre-trial prisoners to the jail each year. The average length of stay for an inmate is about 31 days. On any given day, there are about 1500 pre-trial prisoners housed in the jail. Adding just 5 days to the average length of stay would increase the jail's average daily population by 275 inmates, a huge increase.

The proposed amendment to AO 2003-7 would increase the time the circuit court has to process the bulk of its criminal cases by 63 days, an increase of almost 70%, risking far more than a 5 day increase in the average length of stay at the county jail.

Wayne County cannot house more inmates in its jail. The jail is at capacity, and is currently maintained at capacity by placing low-risk offenders in supervised release programs or community based alternatives to jail. The jail simply cannot absorb the increase in daily population that the proposed amendment will cause.

In FY 2009, Wayne County budgeted almost \$90,000,000 for jail operations with 20% of the Wayne County general fund consumed by public safety functions alone. As the Court knows, local government budgets are under intense stress. Budgetary realities preclude additional funding for the jail. The only way available to manage the increased jail population will be to release prisoners back into the community.

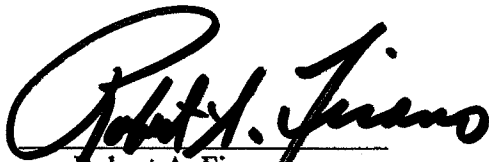
This need not occur. Courts across Michigan, and particularly in Wayne County, have frequently recognized their role in controlling the prisoner population, and have often embraced the challenge of using aggressive case management practices to meet the Court's guidelines. For example, in 2002, Wayne County Circuit Court Chief Judge Pro Tem Pamela Harwood required the court's judges to schedule trials within 91 days of bind over, with the stated goal of becoming "once again, the best high-volume, urban court in the country" and to meet "all time standards applicable to our Court." Her efforts worked. In 2003, Chief Judge Kenney, along with Judge Harwood, issued a report entitled "Jail Overcrowding – A Serious Problem Requiring Comprehensive Solutions" in which the jurists noted "recent successful efforts to deal with jail overcrowding." The report found that case management efforts had reduced pre-trial jail releases from over 300 per month to zero in less than a year.

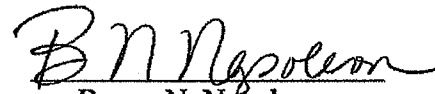
Our experience in Wayne County shows that it is possible, with cooperation, hard work, and vigilance, to adhere to existing case management guidelines, process cases more efficiently, reduce the length of stay for prisoners in the jail, and eliminate overcrowding without resorting to excessive releases of prisoners.

We do not believe that the solution to this problem is to relax the standards. Doing so will increase the jail population to crisis levels, and require hundreds of pre-trial releases in Wayne County. In addition, the changes will reduce the leverage available to chief judges to increase court productivity and efficiency.

We strongly oppose the proposed amendment to AO 2003-7, and urge the Court to recognize and consider the unintended adverse consequences it will cause.

Sincerely,


Robert A. Ficano
Wayne County Executive


Benny N. Napoleon
Wayne County Sheriff